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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,888	01/25/2002	Marcille Faye Ruman	KCC-15,463.1	1770

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PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
HOFFMAN ESTATES, IL 60195

EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/056,888

Applicant(s)

RUMAN ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-46.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The applicant's arguments have been considered but are not persuasive.

In response to the applicant's argument that the article of Wilson is not disposable, it is noted that the article is fully capable of being disposed of, and nothing in the structure of the article precludes it from being disposable. Further, the article is not intended to be reused indefinitely, and will eventually be disposed of when the article is worn out or no longer needed. The argument that the article of Wilson is not disposable is not persuasive.

In response to the applicant's argument that Wilson fails to disclose front and back panels bonded to the chassis, it is noted that the panels of Wilson, shown in figure 3 as features 22, 24, 28, and 30, are not integral with the chassis but rather attached by means of stitching. The applicant states that no reasonable interpretation of a side panel could include the reinforced edges disclosed by Wilson, but does not state what Wilson lacks that leads to this conclusion. It is the examiner's position that features 22, 24, 28, and 30 of Wilson fulfill all limitations of the claim, as described in the Final Office Action.

With respect to claims 26, 32, and 33, one edge of the side panel is proximal to the chassis in that it overlaps the chassis and is bonded thereto. The opposite edge is positioned at or just beyond the edge of the chassis, and therefore is distal with respect to the first, proximal edge.

With respect to claims 35 and 38, the elastic 21 extends into the panels 22 and 24, as shown in figures 13 and 15. The back panel therefore comprises elastomeric material and fulfills the claimed limitations.

With respect to claims 41 and 42, the figures of Wilson show distal edges that are not collinear, and thus fulfill the limitation of the claims. The purpose of the feature or intent of the inventor is irrelevant; Wilson shows the claimed feature.

With respect to claims 43 and 44, the fastening components of Wilson fulfill the commonly accepted dictionary definition of 'integral,' and therefore fulfill the claimed limitations.



Larry I. Schwartz
Supervisory Patent Examiner
Group 3700